IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2178 of 2001

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHANTABEN BHOLABHAI PATEL

Versus

DIST COLLECTOR

Appearance:

MR PK JANI for Petitioner No. 1

MS MANISHA SHAH, AGP for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 01/11/2001

ORAL JUDGEMENT

#. Heard the learned advocates.

#. The petitioner herein was elected to be the Member of Visnagar Municipality (hereinafter referred to as 'the Municipality') in the year 1995. After expiry of the term of the said Municipality, fresh election was held in the month of January, 2000. The petitioner contested the said election and was elected as a Councillor. However, during her earlier term, i.e. from the year 1995-2000, under order dated 6th January 1999 made by the Director of Municipalities, the petitioner was ordered to be removed as the Municipal Councillor. In view of the said order of removal, the petitioner was disqualified to be the Councillor of the Municipality under section 11(1)(a)(ii) of the Gujarat Municipalities Act, 1963. In view of the petitioner's disqualification referred to hereinabove, the District Collector Mehsana, under his order dated 23rd January, 2001, called upon the petitioner to show cause why, in view of the disqualification incurred by her, she should not be removed from the office of the Municipal Councillor. Feeling aggrieved, the petitioner has preferred the present petition.

#. Be it noted that the order dated 6th January, 1999 made by the Director of the Municipalities removing the petitioner from the office of the Municipal Councillor was challenged by the petitioner in Special Civil Application No.115/99. The said petition has been allowed by this Court (i.e. myself) today. The order of removal dated 6th January, 1999 is quashed and set aside. The disqualification incurred by the petitioner on account of her removal under order dated 6th January, 1999 has thus been removed. The petitioner, therefore, can not be said to be disqualified to hold the post of Municipal Councillor. The impugned notice dated 23rd January, 2001 is, therefore, not sustainable, hence, quashed and set aside. Petition is allowed accordingly. Rule is made absolute. There shall be no order as to costs.

1st November, 2001. (Ms. R.M. Doshit, J.)

/sakkaf